

BLEVINS

SCOTT BLEVINS

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE: ADAMS GOLF, INC. : CONSOLIDATED
SECURITIES LITIGATION : C.A. NO. 99-371 KAJ

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ORAL DEPOSITION OF SCOTT BLEVINS

Wednesday, May 3, 2006

The oral deposition of Scott Blevins was held at the law offices of Akin Gump Strauss Hauer & Feld, LLP, 1700 Pacific Avenue, Suite 4100, Dallas, Texas, from 9:36 a.m. to 2:26 p.m., before Jamie K. Israelow, a Certified Shorthand Reporter in and for the State of Texas, Registered Professional Reporter, Certified Realtime Reporter and Certified LiveNote Reporter.

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10:24:55 1	They display one, and then they have backstock, so	10:38:45 1 beginning to figure out how many clubs were in a
10:24:58 2	we were trying to find out if they only had one --	10:38:48 2 given Costco?
10:25:01 3	Q Uh-huh.	10:38:49 3 A Yes. It's not easy to figure it out.
10:25:02 4	A -- in a store or if they had 12 or	10:38:51 4 Q To get --
10:25:06 5	200.	10:38:51 5 A You can walk into the warehouse.
10:25:06 6	Q Okay.	10:38:53 6 Q It takes a little sleuthing?
10:25:06 7	A That was the next step: Once they	10:38:56 7 A Yes.
10:25:09 8	had them, can we figure how many they had.	10:38:56 8 Q So how did you deal with that issue?
10:25:15 9	Q So in the first part of this first	10:38:59 9 A Eventually, we found that if you
10:25:18 10	wave, were your RACs calling back and saying they	10:39:0110 could find the right person in the Costco, which
10:25:23 11	had one?	10:39:0411 was tough to do because they don't have many
10:25:24 12	A We didn't know how to figure out how	10:39:0712 people servicing you when you're shopping the
10:25:26 13	many they had until one -- one of them stumbled	10:39:0913 store.
10:25:29 14	upon a way to find out.	10:39:0914 Q Right.
10:25:32 15	Q Okay. So this backstock technique	10:39:1015 A You could ask for: Hey, I need to
10:25:36 16	used by Costco was unknown to you before you	10:39:1416 buy 24 clubs or 48 of these. Do you have that
10:25:40 17	started sending people out?	10:39:2017 many? And they would say yes or no. And
10:25:41 18	A Right. We just knew they had one on	10:39:2318 occasionally, then, you could get them to walk you
10:25:43 19	display.	10:39:2619 over to the computer to see if they had clubs in
10:25:43 20	Q Okay.	10:39:2820 one of their neighboring stores.
10:25:43 21	A And that's all you could see.	10:39:3021 Q Oh, I see.
10:25:47 22	Q Okay.	10:39:3122 A I only have 24, but there's 12 over
10:25:48 23	MS. BRANNEN: If this isn't a	10:39:4023 here.
10:25:49 24	good time, in the next few minutes can we take a	10:39:4024 Q And -- and your regional account
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10:25:52 1	break?	10:39:45 1 coordinators, did they inquire as to whether or
10:25:52 2	MR. MARA: We can take one	10:39:49 2 not those inventory levels reflected on the Costco
10:25:54 3	right now.	10:39:53 3 computer were current and accurate? I can't -- it
10:25:54 4	(A recess was taken from	10:39:58 4 was just an informal: Thank you?
10:25:54 5	10:25 to 10:37.)	10:40:00 5 A Yes
10:25:54 6	(Off the record, the attorneys	10:40:10 6 Q Just one moment Again, I'm just
10:25:54 7	stipulated to the Federal	10:40:12 7 trying to keep a running tally.
10:37:58 8	Rules.)	10:40:14 8 Okay. What -- how else did
10:37:58 9	Q (By Mr. Mara) Okay. Before the	10:40:19 9 this Blevins group work?
10:38:03 10	break, we were talking about Costco and	10:40:2210 MS. BRANNEN: I'm going to
10:38:14 11	backstocking. How did you figure it out or how	10:40:2311 object to the "Blevins group work." Can we go
10:38:20 12	did you deal with it?	10:40:2712 back to the investigatory team? That's kind of
10:38:21 13	A With what specifically?	10:40:3013 vague to me
10:38:22 14	Q Correct me if I'm wrong, but I	10:40:3114 MR. MARA: I'm using it --
10:38:25 15	believe you testified that Costco put one club out	10:40:3415 investigatory is too hard to say. That's the only
10:38:28 16	on the sales floor?	10:40:3416 reason I'm calling it the Blevins group. What --
10:38:29 17	A Right.	10:40:3817 the Costco --
10:38:30 18	Q And I'm assuming would have stock in	10:40:3818 MR. McEVOY: Can we call them
10:38:31 19	a back room?	10:40:4019 the regional account --
10:38:32 20	A Right.	10:40:4220 MR. MARA: Okay. The regional
10:38:33 21	Q So it was physically in the Costco	10:40:4421 account group.
10:38:35 22	store, it just wasn't on the sales floor?	10:40:4422 MS. BRANNEN: Corrodonators.
10:38:39 23	A Correct.	10:40:4523 THE WITNESS: I just want to
10:38:40 24	Q And that stymied your efforts in the	10:40:4624 make sure everyone understands that it was not a

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10:40:49 1 formal team put together to go identify this 10:40:51 2 Q (By Mr. Mara) Understood. 10:40:51 3 A It was my folks already in place, 10:40:54 4 just you've got them -- you've got people where 10:40:57 5 they've got a lot of stores -- 10:40:59 6 Q Right 10:40:59 7 A -- figure it out. And he did. So it 10:41:02 8 was a natural, I guess, that I should try to 10:41:04 9 figure it out if I've got people out there. 10:41:06 10 Q Sure. 10:41:07 11 A It wasn't a specific formed team 10:41:10 12 of -- that's all we did. 10:41:11 13 Q Understood. 10:41:11 14 A We still had, you know, a number of 10:41:13 15 other things on our plate that we had to get 10:41:15 16 done -- 10:41:16 17 Q Right. 10:41:16 18 A -- and make sure stores were 10:41:19 19 merchandised and check competition, which was, you 10:41:22 20 know, tough at the time, so -- 10:41:24 21 Q Right. So we'll call it the Costco 10:41:29 22 group, for purposes of this deposition only and 10:41:31 23 it's just referring to anyone who participated in 10:41:35 24 this effort to figure out --	10:42:28 1 Can you help me? 10:42:28 2 A Correct. 10:42:29 3 Q Did the investigation take any form 10:42:31 4 beyond that at any point or was that it? 10:42:34 5 A That was it for my group. 10:42:44 6 Q Okay. Do you know if any other 10:42:45 7 people within Adams were conducting similar 10:42:50 8 investigations or efforts? 10:42:51 9 A I don't recall. I don't know. 10:42:52 10 Q Do you know if anyone at Adams or -- 10:42:54 11 do you know if anyone at Adams was investigating 10:43:01 12 suspected gray marketers other than Costco at the 10:43:03 13 time that your RACs were investigating Costco? 10:43:14 14 A Not that I could recall. 10:43:22 15 Q I believe you testified the reporting 10:43:27 16 structure -- I'm using that loosely. I know you 10:43:30 17 didn't say it was structured. But the reporting 10:43:34 18 mechanism was simply for your RAC basically to 10:43:37 19 walk out of the Costco, call you from the car -- 10:43:39 20 A Correct. 10:43:39 21 Q -- and say: Here's what I just found 10:43:41 22 out -- 10:43:42 23 A Correct. 10:43:42 24 Q -- in Anytown, USA?
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10:41:37 1 MS. BRANNEN: Can we not just 10:41:38 2 go with the RACs? 10:41:42 3 MR. MARA: That's fine, the 10:41:45 4 RACs. 10:41:45 5 MS. BRANNEN: Is that right? 10:41:46 6 Doesn't that cover everybody? 10:41:46 7 THE WITNESS: That's right. 10:41:46 8 There was never a formal group. 10:41:49 9 MR. MARA: I didn't for a 10:41:50 10 moment think it was. 10:41:52 11 Q (By Mr. Mara) So the RACs. Okay. 10:41:54 12 What else did the RACs do to 10:41:57 13 investigate this problem? 10:42:03 14 A That's about it. 10:42:04 15 Q Okay. Did there ever come a time 10:42:11 16 when the investigatory relationship with Costco 10:42:15 17 became more formal? 10:42:17 18 MS. BRANNEN: I'm going to 10:42:18 19 object. That's vague and ambiguous. 10:42:21 20 Q (By Mr. Mara) Was there ever a 10:42:22 21 time -- you've described the effort so far as 10:42:24 22 really just walking into the store -- 10:42:25 23 A Right. 10:42:26 24 Q -- getting a salesperson and saying:	10:43:44 1 A Right. 10:43:45 2 Q Was there a time that that reporting 10:43:47 3 structure became more formalized, or did it remain 10:43:50 4 that way throughout the RACs' efforts? 10:43:55 5 A It wasn't any formal than that. Like 10:43:59 6 I said, they could fax it. If you knew your store 10:44:03 7 list and you had your best guesstimate on numbers, 10:44:08 8 you could fax it in. 10:44:09 9 Q When -- how often did you report 10:44:11 10 to -- strike that. 10:44:11 11 Who did you report to as it -- 10:44:14 12 A At what time? 10:44:15 13 Q -- as it relates to the efforts of 10:44:17 14 your RACs to deal with the Costco problem? 10:44:21 15 A It would have been Chip. 10:44:22 16 Q Okay. Did you report to anyone else 10:44:25 17 about the RACs' efforts? 10:44:28 18 A No. 10:44:28 19 Q How often did you report to Chip? 10:44:33 20 A There was nothing structured set up, 10:44:35 21 so we probably spoke about it every few days, if I 10:44:39 22 had new information. 10:44:45 23 Q Did you draft any reports or 10:44:47 24 memoranda to Chip about the -- the efforts of your

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10:44:51 1 RACs related to Costco?	10:47:23 1 A Probably because I could never find
10:44:54 2 A Not that I recall. I think I recall	10:47:26 2 any real information on it
10:44:56 3 showing him the numbers and the stores, and I may	10:47:32 3 Q And what do you mean by "real
10:45:02 4 have drafted a note or two --	10:47:33 4 information"?
10:45:04 5 Q Okay.	10:47:34 5 A I couldn't track where the clubs came
10:45:04 6 A -- but I can't remember	10:47:39 6 from. I -- we had identified what stores had
10:45:10 7 Q Other than Chip, did you talk about	10:47:41 7 them, and we knew approximately the number of
10:45:16 8 the efforts of the RACs with anyone else at Adams,	10:47:46 8 clubs in those stores, and then I ran through any
10:45:26 9 other than the RACs? I mean -- by that I mean	10:47:50 9 reports I could find to try to see how the
10:45:26 10 Adams management.	10:47:55 10 quantities could have ended up there, and at the
10:45:26 11 A So Mark -- Mark -- well, at the time,	10:47:57 11 end of the day, it was like finding a needle in a
10:45:26 12 I guess he wouldn't have even been there, so I	10:48:00 12 haystack. We had sold so many clubs, I
10:45:28 13 doubt it.	10:48:03 13 couldn't -- there was nothing else for me to do.
10:45:35 14 Q So then specifically, you never	10:48:05 14 I didn't know what to do
10:45:38 15 discussed it with Darl Hatfield?	10:48:07 15 Q Did you -- during the course of the
10:45:43 16 A Not that I can recall.	10:48:09 16 investigation by the RACs, did you discuss
10:45:44 17 Q Okay. Or Jim Farrell?	10:48:17 17 methods, alternative methods to run the
10:45:50 18 A I don't recall having many	10:48:19 18 investigation with Chip? I mean, you were running
10:45:51 19 conversations with Jim.	10:48:24 19 the investigation as you've described. Were any
10:45:54 20 Q The efforts by the RACs related to	10:48:26 20 other alternatives to that form of investigation
10:46:00 21 the Costco problem, were they the subject at any	10:48:29 21 considered?
10:46:05 22 staff meetings?	10:48:30 22 A Not that I know of. I don't know
10:46:06 23 A I didn't attend many because I was on	10:48:31 23 what else we could have done.
10:46:08 24 the road --	10:48:38 24 Q Around Thanksgiving of 1998, did you
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10:46:08 1 Q Right.	10:48:43 1 wrap up the investigation by the RACs with any
10:46:08 2 A -- but I'm assuming since it was an	10:48:48 2 formal report?
10:46:11 3 item at one point in time in the staff meetings	10:48:51 3 A I don't believe so.
10:46:13 4 that it was followed up on in some way, shape, or	10:48:55 4 Q Did you orally wrap it up with Chip
10:46:16 5 form, but I don't know that for sure.	10:48:57 5 Brewer? Was there ever a final -- I'm sorry.
10:46:22 6 Q The investigation by the RACs, how	10:49:00 6 Strike that. It's a multiple question.
10:46:32 7 long did it last?	10:49:03 7 How did the investigation by
10:46:33 8 A In total?	10:49:05 8 the RACs end? Did Chip Brewer say: That's
10:46:34 9 Q Yeah. From --	10:49:10 9 enough?
10:46:35 10 A From the time --	10:49:11 10 A I don't think so. I think the -- I
10:46:36 11 Q I believe we said it would have	10:49:13 11 don't recall why it ended or how or him ever
10:46:38 12 started -- didn't we say late October, early	10:49:17 12 saying to stop looking at the stores. We had just
10:46:42 13 November of '98? The record will speak --	10:49:21 13 moved on at that point, probably.
10:46:45 14 A Sometime in October it started.	10:49:31 14 Q By the end of October when --
10:46:47 15 Q Yeah.	10:49:34 15 approximately the time you were getting the
10:46:48 16 A And you know, as I recall,	10:49:36 16 investigation by the RACs going, had -- were the
10:46:54 17 Thanksgivingish time frame, I don't remember doing	10:49:42 17 rumblings concerning Costco and/or gray marketing
10:46:56 18 anything with it the following year.	10:49:45 18 even louder still within Adams? Were you hearing
10:47:00 19 Q Okay.	10:49:48 19 about it more frequently?
10:47:00 20 A So it must have been	10:49:52 20 A I was hearing it more frequently
10:47:04 21 Thanksgivingish --	10:49:53 21 because I was obviously researching it at the
10:47:05 22 Q Okay.	10:49:56 22 time, so I would hear it in passing from random,
10:47:05 23 A -- of '98	10:49:59 23 probably, in the sales group I would imagine is
10:47:14 24 Q Why did it stop?	10:50:01 24 where I heard it.

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14:10:44 1 record.	14:13:15 1 massive expansion of golf when Tiger Woods came onto the scene.
14:10:45 2 A Okay.	14:13:19 2 And it's pretty obvious to
14:10:46 3 Q One is: On Exhibit 63, this is the memo from Mark Gonsalves to you, to the RACs, to inside sales and Craig Parrish about Costco.	14:13:22 4 everyone that -- they've even dubbed it the Tiger Woods effect, that golf courses were built,
14:10:49 4	14:13:25 5 retailers opened shops, franchises sold very well
14:10:55 5	14:13:27 6 at the time Golf USA was in stores, and retailers
14:10:58 6	14:13:33 7 were loading up on product in the end of '97 into
14:11:00 7	14:13:36 8 '98 because Tiger Woods came onboard, and
14:11:05 8	14:13:40 9 everybody thought that now that he's playing,
14:11:10 9	14:13:44 10 every person on the planet was going to start
14:11:13 10	14:13:46 11 playing golf, and it actually didn't happen.
14:11:17 11	14:13:48 12 Q So towards the end of '98, was that
14:11:20 12	14:13:52 13 when this Tiger Woods effect came -- started to
14:11:24 13	14:13:54 14 become apparent?
14:11:31 14	14:13:57 15 A In hindsight, that's when it became
14:11:31 15	14:13:59 16 an issue, because if you look back at -- Callaway,
14:11:35 16	14:14:01 17 I think, was the only bellwether of the golf
14:11:37 17	14:14:06 18 industry at the time. Their only stock traded --
14:11:40 18	14:14:10 19 I think they called it out sometime in July or
14:11:44 19	14:14:13 20 August in a press release when their stock price
14:11:48 20	14:14:20 22 dove 30-some-odd percent in a day, and I think
14:11:51 21	14:14:23 23 they were the first ones to say: Hey, we've got a
14:11:53 22	14:14:27 24 problem. The industry has an issue.
14:12:03 23	
14:12:03 24	
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14:12:03 1 better product and had a club that had multi	14:14:30 1 Q Do -- in terms of the concerns that
14:12:08 2 materials, where ours was steel only. So they had	14:14:33 2 you had at the time of this memo, the competition,
14:12:11 3 a sexier product, was selling it for more, maybe	14:14:37 3 the Orlimar issues that you were just talking
14:12:14 4 50 to \$100 more than ours was.	14:14:39 4 about --
14:12:17 5 So the retailers were making	14:14:39 5 A Uh-huh.
14:12:18 6 more margin. And we had heard several times from	14:14:40 6 Q -- did you report any of those --
14:12:22 7 the floor people, just in the chats about our	14:14:41 7 those concerns to Mark Gonsalves since he was your
14:12:25 8 positioning in there, that they were getting paid	14:14:49 8 supervisor?
14:12:27 9 to sell the product.	14:14:49 9 A Yes We had some discussions on
14:12:30 10 Q The salespeople were?	14:14:50 10 that, yes
14:12:31 11 A The salespeople on the floor, by	14:14:51 11 Q And so why -- why would you have
14:12:34 12 Orlimar, which we weren't doing at the time, and I	14:14:53 12 discussed that issue with him, as I believe your
14:12:37 13 don't think anyone else other than brands you'd	14:14:55 13 testimony was that you didn't really talk about
14:12:39 14 never heard of were being spiffed or compensated	14:14:56 14 the Costco issue with him or you don't recall
14:12:43 15 on the floor. So that was a primary issue that I	14:14:59 15 having discussions about that?
14:12:47 16 was trying to address at the time.	14:15:00 16 A Again, it was much -- it would have
14:12:50 17 Q Was there anything else that was a	14:15:02 17 been much more of a pertinent issue at the time to
14:12:52 18 significant issue at the time?	14:15:05 18 talk about Orlimar and the competition and -- than
14:12:56 19 A No. I think we were closing in on	14:15:10 19 this, which at the time was a different issue in
14:12:58 20 the time, though, certainly toward the end of '98,	14:15:13 20 my world
14:13:03 21 where we had some stores closing. We had	14:15:22 21 Q And based on your job duties when you
14:13:05 22 retailers closing, and we were -- not we as Adams	14:15:25 22 were the regional account coordinator supervisor,
14:13:09 23 were losing accounts. but I think in general we	14:15:28 23 would you have been involved in any conversations
14:13:13 24 were all losing accounts because there was a	14:15:31 24 with Mark Gonsalves about serialization, if they

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14:19:56 1 buying decision. They just might not have the 14:20:00 2 clientele to -- you know, like I said, buy a big 14:20:03 3 jar of mayonnaise and a golf club at the same 14:20:08 4 time.	14:22:14 1 Q And when did Orlimar really start 14:22:31 2 having this effect on Adams Golf's market, as far 14:22:31 3 as you know?
14:20:09 5 Q So -- at the time of this e-mail in 14:20:11 6 Exhibit 69, you're talking about other retailers 14:20:15 7 that have issues with their clubs being in Costcos 14:20:19 8 as well?	14:22:31 4 A They were -- well, they're a West 14:22:31 5 Coast company, so out west, you know, they've been 14:22:31 6 selling a lot of golf clubs since the '60s. But 14:22:32 7 the TriMetal, which was our competitor, I believe 14:22:36 8 January of '98 was when they got significant 14:22:43 9 sell-through out west, or significant presence in 14:22:4510 the stores where we would notice it
14:20:19 9 A Other manufacturers. 14:20:2010 Q Right. Right. Sorry. 14:20:2211 A It's okay. 14:20:2312 Q Did you know at the time anything 14:20:2613 more specific than you put in this e-mail about 14:20:2814 what they were doing to combat gray marketing? 14:20:3415 A No, other than what I put in there. 14:20:3616 Q Okay. And do you know now what -- is 14:20:3817 there anything different that people -- other -- 14:20:4218 other manufacturers do to combat gray marketing? 14:20:4619 Is there any other way to do it besides marking 14:20:5020 the products? 14:20:5421 A That's still the main way to do it. 14:20:5622 And I mean, some don't do it and choose not to. 14:21:0023 I -- I can't prove it, but I think Taylor Made has 14:21:0224 been selling Costco since this e-mail, so	14:22:5311 Q And why would an account complain 14:22:5612 about double shipping? We talked a little bit 14:22:5913 about double shipping earlier. 14:23:0214 A Well, you'd complain just for the 14:23:0415 same reason if you ordered something and it showed 14:23:0616 up and you were happy about it, and then it came 14:23:1117 again. There's a number of reasons. You'd 14:23:1618 complain either A, you didn't order it; or B, you 14:23:2019 did order it and had it on a prebook, and the 14:23:2320 order came and for some reason your business or 14:23:2621 your sell-through has slowed down, you would call 14:23:2922 the company to say: Hey, it's a prebook. I don't 14:23:3223 want it. You're double shipping me. 14:23:3524 Q And what's a -- what's a prebook?
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14:21:06 1 obviously I don't think they think it hurts their 14:21:10 2 sales 14:21:11 3 Q Uh-huh. 14:21:11 4 A And that's the only one I noted that 14:21:13 5 I thought was selling to them. 14:21:18 6 Q And what effect, if any, would 14:21:21 7 competition like you were talking about from 14:21:23 8 Orlimar, would that effect be on Costco's 14:21:27 9 sell-through of Adams golf clubs? 14:21:3010 A It would have a negative effect on 14:21:3311 sell-through everywhere because the issue with 14:21:3712 Orlimar, the competitive nature of Orlimar was 14:21:4013 that it was the exact same golf club. We had one 14:21:4414 product, one SKU, one loft. They came out with a 14:21:4815 club identical. We're not talking about a driver 14:21:5116 versus a putter. They came out with a trump 14:21:5417 utility club that was the exact same purpose that 14:21:5718 ours existed. 14:21:5919 So if they had good marketing 14:22:0120 and if they were getting the consumer to look at 14:22:0321 it, which it's obvious they were, it's a very 14:22:0822 simple decision. You're not going to buy an Adams 14:22:1123 if you're going to buy an Orlimar. You can't have 14:22:1424 both.	14:23:37 1 Can you explain what that means? 14:23:38 2 A Just a way to take orders when a club 14:23:44 3 is selling through, you know, you're going to go 14:23:46 4 ahead and book it out so the retailer -- you don't 14:23:49 5 have to go through the sales process every time 14:23:51 6 you want to put product in your shop. 14:23:54 7 So if I'm selling 24 clubs a 14:23:56 8 month at my store, it's wasting both of our times 14:24:01 9 to talk every month and order 24 more clubs. Just 14:24:0410 book me out for the next six months for 24 clubs 14:24:0711 so I know I have them coming. And that's what a 14:24:1112 prebook is. 14:24:1313 Q And so the retail account would agree 14:24:1614 to have a set -- standing order basically? 14:24:1915 A Yes. 14:24:1916 Q And then it would just automatically 14:24:2417 ship without them having to call in? 14:24:2518 A Correct. 14:24:2619 Q At whatever time frame was set? 14:24:2820 A Correct. It's just an order for a 14:24:3021 future date. 14:24:3122 Q And so then, what you were just 14:24:3223 saying about double shipping is if they've done 14:24:3524 that and they've booked out into the future, this

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14:24:38 1 standing order, but then all of a sudden they stop	14:26:30 1 have any more questions at this point.
14:24:42 2 selling clubs?	14:26:33 2 MR. MARA: That concludes the
14:24:43 3 A Their sell-through slows down, all of	14:26:35 3 deposition.
14:24:45 4 a sudden you don't need 24, you just need 12. You	4
14:24:49 5 know, I would call in to the company and say:	5
14:24:52 6 Hey, I didn't order this. You just shipped it. I	6
14:24:56 7 only want half of it. Give me an RA to send half	7
14:24:59 8 of it back.	8
14:25:00 9 Q Even if you had this standing order	9
14:25:0210 with your salesperson?	10
14:25:0211 A Sure I probably wouldn't do it. I	11
14:25:0512 would probably get my warehouse person or somebody	12
14:25:0613 to call in. But that's one reason.	13
14:25:1014 The others are obviously, like	14
14:25:1215 I mentioned before, credit issues. You know, if	15
14:25:1416 your store is going downhill and you just want to	16
14:25:1717 clean your books, this is just one of the things	17
14:25:1918 the retailer uses to try to get out of paying a	18
14:25:2319 bill. It's one of the methods. There's many.	19
14:25:2920 MS. BRANNEN: I think that's	20
14:25:2921 all the questions I have right now.	21
14:25:3322 Oh, let me -- let me ask one	22
14:25:3523 thing to clarify.	23
14:25:3824 Q (By Ms. Brannen) In a prebook	24
Page 179	Page 181
14:25:39 1 situation like that, would the retailer know that	1 STATE OF TEXAS X
14:25:42 2 he had this standing order? That's kind of what	2 COUNTY OF DALLAS X
14:25:45 3 we were just talking about.	3
14:25:46 4 A Yes.	4 I, Jamie K. Israelow, a
14:25:47 5 Q You're saying you might not call, but	5 Certified Shorthand Reporter duly commissioned and
14:25:48 6 you might have your warehouse person call. Would,	6 qualified in and for the State of Texas,
14:25:50 7 generally, whoever did the ordering for the	7 Registered Professional Reporter, Certified
14:25:53 8 retailer know that they had this standing order?	8 Realtime Reporter and Certified LiveNote Reporter,
14:25:56 9 A Yes. The -- whoever the buyer would	9 do hereby certify that there came before me on the
14:25:5910 be.	10 3rd day of May at Akin Gump Strauss Hauer & Feld,
14:26:0011 Q They would know?	11 LLP, located at 1700 Pacific Avenue, Suite 4100,
14:26:0112 A And it's up to them to communicate it	12 in the city of Dallas, County of Dallas, State of
14:26:0313 to the rest of their team. So if they communicate	13 Texas, the following named person, to-wit: SCOTT
14:26:0614 it to the warehouse, the receiving person, then	14 BLEVINS, who was duly sworn to testify the truth,
14:26:0915 they know. But you know, occasionally, that	15 the whole truth, and nothing but the truth of
14:26:1216 wouldn't happen, so someone in receiving might	16 knowledge touching and concerning the matters in
14:26:1417 say: I'm not supposed to have this order.	17 controversy in this cause; and that he was
14:26:1718 Q Right.	18 thereupon examined upon oath and his examination
14:26:1719 A And just refuse it.	19 reduced to typewriting under my supervision; that
14:26:2020 Q Okay.	20 the deposition is a true record of the testimony
14:26:2021 A But generally, yes, everyone is aware	21 given by the witness, and signature of the witness
14:26:2222 of a prebook because it's on the books.	22 is to be before any notary public and returned
14:26:2923 Q Okay.	23 within 30 days from date of receipt of transcript.
14:26:2924 MS. BRANNEN: I think I don't	24 I further certify that

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE: ADAMS GOLF, INC. : CONSOLIDATED
SECURITIES LITIGATION : C.A. NO. 99-371 KAJ
X

ORAL DEPOSITION OF CHIP BREWER

Tuesday, May 2, 2006

The oral deposition of Chip Brewer was held at the law offices of Akin Gump Strauss Hauer & Feld, LLP, 1700 Pacific Avenue, Suite 4100, Dallas, Texas, from 11:03 a.m. to 2:44 p.m., before Jamie K. Israelow, a Certified Shorthand Reporter in and for the State of Texas, Registered Professional Reporter, Certified Realtime Reporter and Certified LiveNote Reporter.

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11:10:08 1 place? 11:10:09 2 A I don't recall when the interview 11:10:10 3 took place. 11:10:10 4 Q Okay. But sometime in the summer of 11:10:12 5 1998? 11:10:12 6 A I believe so. 11:10:13 7 Q So it's reasonable to say that the -- 11:10:18 8 from first learning of the opportunity to being 11:10:20 9 hired was two months' time? 11:10:2110 A It was a short period of time. 11:10:2311 Q Okay. 11:10:2312 A I don't know whether -- what the time 11:10:2513 period was. 11:10:2814 Q Are you able to recall what, if any, 11:10:3215 problems or -- problems were presented with the 11:10:3616 job at Adams Golf? 11:10:3817 A At the interview, Neil? 11:10:4018 Q Yeah. 11:10:4119 A At the interview, we talked about 11:10:4420 opportunities, mostly, I believe, but again, I 11:10:4821 don't recall the specifics of the interview. 11:10:4922 Q Do you recall -- were you introduced 11:10:5123 to anyone else then other than Barney Adams and 11:10:5524 Mr. Murtland?	11:12:18 1 in a transition mode for a majority of September 11:12:25 2 Q And did there come a time that that 11:12:28 3 transition mode ended? 11:12:29 4 A Yes. 11:12:29 5 Q And when was that? 11:12:30 6 A Sometime end of Septemberish. Now, 11:12:34 7 exactly whether it was the last day of September 11:12:36 8 or not, I don't recall. 11:12:37 9 Q And why did that transition mode come 11:12:4010 to an end? 11:12:4111 A Mark left the company. 11:12:5112 Q And why did Mark Gonsalves leave the 11:12:5813 company? 11:12:5814 A He had accepted a position with a ski 11:13:0015 company, I believe. 11:13:0316 Q Are you able to recall what company? 11:13:0917 A No. 11:13:1718 Q When you started at Adams Golf and 11:13:1919 began this transitional period, did you know that Mark Gonsalves was leaving the company? 11:13:2420 A Yes. 11:13:2522 Q And when did you learn that 11:13:2823 information? 11:13:2924 A I knew that Mark was leaving the
Page 11	Page 13
11:10:58 1 A I don't recall being introduced to 11:11:00 2 anybody other than Barney and Dick. 11:11:06 3 Q Now -- and you remain with the 11:11:07 4 company today? 11:11:08 5 A Yes. 11:11:08 6 Q And your current title is? 11:11:11 7 A President and CEO. 11:11:21 8 Q Okay. Are you able to recall what 11:11:22 9 day you started at Adams Golf? You said it was 11:11:2610 September of '98? 11:11:2811 A I believe it was September 8th of 11:11:3212 1998. 11:11:3513 Q Okay. When you first took over your 11:11:4314 original position as vice president of sales and 11:11:4815 marketing, what, if anything, did you do? 11:11:5116 A Just for clarification, I believe my 11:11:5317 first position was vice president of sales. It 11:11:5618 did not initially include marketing. 11:11:5919 Q Okay. Vice president of sales. 11:12:0020 When you hit the ground at 11:12:0221 Adams Golf, what did you do? 11:12:0322 A When I hit the ground at Adams Golf, 11:12:0623 I trained under Mark Gonsalves. Mark Gonsalves 11:12:1024 was still with the company, and I worked under him	11:13:30 1 company at the interview. 11:13:41 2 Q Okay. What were you told, I guess by Barney, about the circumstances of Mark Gonsalves's departure at the end of the interview? 11:13:47 4 A I was told he was leaving to join 11:13:52 6 that ski company. 11:13:56 7 Q Was there any other discussion of 11:13:59 8 Mark Gonsalves at the interview between yourself 11:14:01 9 and Barney Adams? 11:14:0310 A I don't recall the interview 11:14:0411 Q So same answer as to Murtland, then? 11:14:1112 A Correct. 11:14:1213 Q You've described it as a transitional 11:14:1514 or transitory period. I can't remember the term. 11:14:1715 Can you describe what that period involved? What 11:14:2016 were you doing? 11:14:2217 A I was -- you know, I visited 11:14:2618 customers with Mark and Mark introduced me to 11:14:3119 staff and Mark briefed me on the nature of my 11:14:3920 responsibilities and -- 11:14:4321 Q When you say you visited customers, 11:14:4722 where were those customers located? 11:14:5023 A I believe -- there were several 11:14:5224 customers that we visited. I specifically recall

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11:24:22 1 Q Are you able to recall who the strong 11:24:25 2 performers were?	11:27:01 1 aggressive sales tactics? 11:27:04 2 A I don't recall specifically, but you know, whether it was -- I don't recall the 11:27:07 3 specifics of when I had that conversation or those conversations with Jay.
11:24:26 3 A Yes.	11:27:10 4 Q Was it prior to Gonsalves's departure from the company or subsequent to Gonzalves's 11:27:15 5 departure from the company?
11:24:26 4 Q Who were they?	11:27:16 6 A It would have been after Gonzalves's 11:24:28 5 A Two strong performers are Debbie 11:24:31 6 Chandler and Jay Greaney. 11:24:44 7 Q Now, how were sales responsibilities 11:24:46 8 divided among members of the inside sales staff? 11:24:51 9 Was it geographically or by customer or -- 11:24:56 10 A I don't recall, Neil. I think -- I 11:25:01 11 don't recall whether it was -- I don't recall 11:25:04 12 exactly how it was divided at that point.
11:25:07 13 Q And are you able to recall what 11:25:12 14 customers or -- or regions or divisions Debbie 11:25:16 15 Chandler or Jay Greaney were selling to at that 11:25:20 16 time?	11:27:26 9 Q I'm just trying to keep up. 11:27:29 10 A What were the aggressive sales 11:27:32 11 tactics? 11:27:46 12 A We received complaints from customers 11:27:53 13 regarding Jay. If I recall, the customer would 11:27:54 14 not have ordered the same quantity product or 11:28:00 15 would not have ordered product, and then the 11:28:11 16 orders would somehow be entered into the system.
11:25:20 17 A I know Debbie Chandler sold Family 11:25:26 18 Golf, and I do not recall any specifics of who 11:25:31 19 Jay's customers were.	11:28:14 17 Q Who did you receive those customer 11:28:20 18 complaints from? 11:28:30 19 A I don't recall the specifics.
11:25:42 20 Q And is Debbie Chandler still with the 11:25:44 21 company?	11:28:32 22 Q How many did you receive?
11:25:44 22 A No.	11:28:33 23 A I don't recall. It would -- you 11:25:46 23 Q Do -- are you able to recall when she 11:25:47 24 left the company?
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11:25:49 1 A I believe Debbie left in '99 or 2000.	11:28:49 1 Q Did you personally receive those 11:25:59 2 Q And do you know why Debbie Chandler 11:26:04 3 left?
11:26:04 4 A I know she lives in Austin now with 11:26:06 5 her husband down there. I believe she left 11:26:13 6 because he -- his business moved there.	11:28:52 2 A I don't think I did. 11:28:53 3 Q Who, if anyone -- if it wasn't you, 11:28:56 4 who, if anyone, would have received those 11:29:00 5 complaints? 11:29:05 6 A I don't know. It -- it somehow would 11:29:05 7 have come up to me from the -- somewhere in the 11:29:07 8 organization, but where it would have come through 11:29:12 9 is not clear. It could have come from several 11:29:14 10 paths. Eventually I would have heard about it.
11:26:16 7 Q And Jay Greaney is no longer with the 11:26:19 8 company?	11:29:18 11 Q What did you do when you first heard 11:26:20 9 A That's correct. 11:26:20 10 Q Are you able to recall when he left 11:26:22 11 the company?
11:26:22 12 A I believe Jay left in the fall of 11:26:26 13 1998	11:29:24 12 Q Where did you do when you first heard 11:29:28 13 of these customer complaints. that this was going 11:29:32 14 on?
11:26:27 14 Q And why did Jay Greaney leave?	11:29:32 15 A I spoke with, you know, Jay regarding 11:26:30 15 A He resigned. 11:26:31 16 Q And do you know what was the reason 11:26:33 17 for his resignation?
11:26:35 18 A We asked for Jay's resignation.	11:29:36 16 Q And what did you say to Jay Greaney?
11:26:40 19 Q Why did you ask for Jay Greaney's 11:26:43 20 resignation?	11:29:46 18 A I don't recall the specifics of the 11:29:50 19 conversation.
11:26:43 21 A I was -- at the time, when I joined 11:26:46 22 the company, I became aware of some aggressive 11:26:49 23 sales tactics that I wasn't comfortable with.	11:29:50 20 Q Where was the meeting? 11:29:51 21 A I don't recall that.
11:26:58 24 Q When did you become aware of the	11:29:52 22 Q Was it on campus at Adams Golf, or 11:29:55 23 did it take place outside the physical -- 11:29:58 24 A I assume it was on campus only

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11:30:00 1 because I do not recall having any off-campus 11:30:04 2 meetings.	11:32:34 1 not valid customer orders, and the -- 11:32:44 2 Q Can you explain what you mean by 11:32:46 3 that?
11:30:04 3 Q Who else was present at the meeting?	11:32:46 4 A Well, if the customer hasn't 11:30:06 4 A I don't recall the meeting confirmed the order, and so there may be an 11:30:07 5 Q How many meetings took place -- indication that the order may become live, and the 11:30:08 6 A Don't recall salesman might jump the gun and enter the order 11:30:09 7 Q -- between you and Jay Greaney? 11:30:12 8 Are you familiar with the term 11:30:13 9 "double shipping"?
11:30:19 10 A I've heard the term before. 11:30:23 11 Q And what do you understand that term 11:30:23 12 to mean?	11:32:55 7 11:32:59 8 11:33:04 9 11:33:08 10 11:33:10 11 11:33:18 12 11:33:19 13 11:33:21 14 11:33:24 15 11:33:28 16 11:33:29 17 11:33:30 18 11:33:32 19 11:33:38 20 11:33:41 21 11:33:42 22 11:33:43 23 11:33:45 24 11:31:10 24 Q Was that happening here with Jay
Page 27	Page 29
11:31:11 1 Greaney's aggressive sales tactics? 11:31:19 2 MR. BESETTE: The way you 11:31:19 3 just defined it? 11:31:22 4 MR. MARA: Yeah. Yeah. 11:31:23 5 A The -- you know, I don't know for a 11:31:34 6 fact whether that happened with -- with Jay or 11:31:41 7 not. You know, there were some concerns about 11:31:44 8 Jay's business practice, which included double 11:31:48 9 shipment. 11:31:48 10 The -- you know, this happened 11:31:51 11 a long time ago. I remember the context of why 11:31:56 12 Jay was asked to resign, was regarding, you know, 11:32:02 13 sales practices, but whether there were specific 11:32:07 14 double-shipment issues or not, I can't recall. 11:32:13 15 Q (By Mr. Mara) I believe you 11:32:14 16 testified that you understand double shipping to 11:32:17 17 mean different things in different contexts, and 11:32:19 18 you just described -- 11:32:21 19 A One. 11:32:21 20 Q -- your first understanding 11:32:22 21 What is another context of 11:32:26 22 double shipping? 11:32:26 23 A I've heard people using double 11:32:29 24 shipment for -- also for entering orders that are	11:33:47 1 Everything is 1998. 11:33:48 2 A September/October '98 specifically, 11:33:51 3 because when I was with the company, my 11:33:53 4 understanding is if the customer, you know, 11:33:56 5 verbally confirmed that they wanted to place that 11:33:58 6 order, it was -- 11:33:59 7 Q (By Mr. Mara) That was sufficient? 11:34:00 8 A That's my understanding. 11:34:04 9 Q Okay. So then, in your second 11:34:07 10 understanding of double shipping, perhaps sales 11:34:10 11 are logged without that type of either verbal or 11:34:13 12 written confirmation from the customer? 11:34:15 13 A Yes. 11:34:15 14 Q In September or the fall of 1998, was 11:34:24 15 it predominantly verbal confirmations or was there 11:34:29 16 a system for written confirmations? I don't know. 11:34:33 17 A I believe, it was predominantly 11:34:35 18 verbal. 11:34:35 19 Q Was Jay Greaney engaging in this 11:34:39 20 second type of double shipping at the time? 11:34:41 21 A We had heard of one -- at least one 11:34:48 22 customer complaint regarding that. 11:34:50 23 Q Who was that customer? 11:34:52 24 A I don't recall.

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11:34:52 1 Q How did you learn of that customer 11:34:55 2 complaint? 11:34:55 3 A I don't recall. 11:35:01 4 Q Who, if anyone else, did you discuss 11:35:05 5 Jay Greaney's aggressive sales tactics with? 11:35:08 6 A I discussed it with many people, 11:35:11 7 including human resources, Jay, you know, Mark, 11:35:21 8 you know, various folks in the organization, Jay's 11:35:24 9 direct supervisors, which was Craig Parrish was 11:35:29 10 one. I do not know -- he had another direct boss 11:35:34 11 between him and Craig, and I don't recall who that 11:35:36 12 was. 11:35:36 13 Q Did you discuss it with Barney Adams? 11:35:44 14 A Yes. 11:35:52 15 Q Did any members of the inside sales 11:35:55 16 staff complain about Jay Greaney's sales tactics 11:35:59 17 at that time? 11:36:09 18 A I don't recall. I don't recall 11:36:15 19 anybody complaining about Jay Greaney's sales 11:36:19 20 tactics at that time within the inside sales 11:36:24 21 staff. 11:36:24 22 Q What, if any, other concerns did you 11:36:26 23 have about Jay Greaney at that time, in the fall 11:36:30 24 of 1998?	11:37:55 1 who that was. There were three teams, I believe, 11:38:00 2 of which Ed Hunt, I mentioned, and Roger Wilde 11:38:05 3 were team leaders. There was somebody else and I 11:38:08 4 can't recall and I don't remember where Jay fit 11:38:10 5 into that. 11:38:10 6 Q Okay. But the normal chain of 11:38:12 7 command, then, would have been inside sales staff 11:38:14 8 to the intermediate level -- 11:38:16 9 A Yes. 11:38:17 10 Q -- and then -- 11:38:18 11 A To Craig. 11:38:19 12 Q -- up to Craig. 11:38:20 13 And above Craig would have 11:38:22 14 been Mark Gonsalves? 11:38:23 15 A Until Mark's departure. 11:38:29 16 Q Did you discuss Jay Greaney's sales 11:38:32 17 tactics with Mark Gonsalves? 11:38:34 18 A Yes. 11:38:34 19 Q And what, if anything, did Mark 11:38:36 20 Gonsalves say about it? 11:38:36 21 A My recollection is Mark didn't think 11:38:38 22 it was much of an issue. 11:38:43 23 Q Was Gonsalves aware of it prior to 11:38:45 24 you bringing it to his attention?
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11:36:31 1 A I don't recall having any other 11:36:33 2 concerns about Jay Greaney at that time. 11:36:39 3 Q What was the quantity -- oh, I'm 11:36:41 4 sorry. Strike that 11:36:44 5 Do you have any other 11:36:45 6 understanding of the term "double shipping" -- 11:36:48 7 A No. 11:36:48 8 Q -- other than the two contexts you've 11:36:50 9 discussed it in? 11:36:56 10 What was the quantity of clubs 11:36:59 11 involved in this double shipping by Jay Greaney? 11:37:05 12 A My understanding was it was fairly 11:37:07 13 minor, but I don't have a specific number. 11:37:10 14 Q What amount to you would be fairly 11:37:19 15 minor? 11:37:19 16 A Fairly minor depends on the context. 11:37:21 17 My guess, which is a guess, that this was, you 11:37:24 18 know, less than 50 clubs and probably somewhere in 11:37:28 19 the neighborhood of 25 clubs. But "minor" is a 11:37:35 20 very subjective -- 11:37:46 21 Q And Jay Greaney reported directly to 11:37:51 22 Craig Parrish? 11:37:52 23 A You know, I think he reported to 11:37:54 24 somebody between him and Craig, but I don't recall	11:38:47 1 A Yes. 11:38:57 2 Q How was Mark Gonsalves made aware of 11:39:00 3 it? 11:39:00 4 A I believe that, you know, Mark would 11:39:02 5 have become aware of it through the normal course 11:39:05 6 of business, you know, and conversations that 11:39:11 7 happened within the company. 11:39:21 8 Q Well, correct me if I'm wrong. I 11:39:24 9 believe you've testified that no one within the 11:39:26 10 inside sales staff complained about Jay Greaney's 11:39:32 11 activity. 11:39:32 12 A I believe I testified that I don't 11:39:33 13 recall whether they -- 11:39:34 14 Q Okay. 11:39:34 15 A -- testified on -- or whether they 11:39:37 16 complained about Jay's activities or not. 11:39:47 17 Q Okay. But you're confident there 11:39:48 18 were complaints coming into the company from 11:39:51 19 outside from the customers? 11:39:52 20 A I'm not even confident of that. I 11:39:54 21 think the question was: Did Mark talk to me 11:39:56 22 about -- did Mark and I discuss Jay Greaney's 11:40:01 23 performance and business practices, which the 11:40:03 24 answer was yes.

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<p>13:13:34 1 Q But you are aware that that -- a 13:13:37 2 number of reports were prepared by Darl Hatfield 13:13:40 3 in the fall of 1998 on these subjects?</p> <p>13:13:42 4 A On --</p> <p>13:13:42 5 Q Fall/winter of 1998?</p> <p>13:13:44 6 A On what subjects?</p> <p>13:13:46 7 Q On financial reports or sales reports 13:13:48 8 or a hybrid of the two?</p> <p>13:13:53 9 A Yes, yeah I have seen a document 13:13:54 10 that -- that was, I believe, -- I'm assuming it 13:13:59 11 was prepared by Darl --</p> <p>13:14:00 12 Q Okay</p> <p>13:14:00 13 A -- that was a -- was financial 13:14:03 14 reporting or -- in that time period.</p> <p>13:14:06 15 Q Okay.</p> <p>13:14:06 16 A So therefore --</p> <p>13:14:07 17 Q Because the reason I'm asking, we -- 13:14:10 18 we asked for that document. We haven't seen it.</p> <p>13:14:12 19 MR. BESETTE: He's talking 13:14:13 20 about periodic financial reports. I don't know -- 13:14:16 21 make sure you guys are on the same page.</p> <p>13:14:19 22 A Yeah, monthly numbers.</p> <p>13:14:21 23 Q (By Mr Mara) I'm just explaining 13:14:23 24 I'm not trying to be coy.</p>	<p>13:15:55 1 working with a product that had been in the 13:15:58 2 marketplace since 1996, I believe, so two and a 13:16:02 3 half years. That's a very long period of time for a product to -- to remain vibrant.</p> <p>The -- you know, there -- there were a whole myriad of issues that in hindsight, I think, contributed to that market-share erosion that occurred at that point in time.</p> <p>Q And the gray marketing situation at Costco being one of those myriad issues?</p> <p>A Gray marketing or product being at Costco was clearly an issue. That became increasingly clear, but I don't have the feel that it was a dominant issue, nor do I have the feel that I can give a percentage answer in terms of what it was or was not as a contributing factor.</p> <p>Q When you were confronted with these varying contributors in the market-share decline, is this what -- do you believe this is what Barney Adams was referring to as things that would have inflicted irreparable damage on the company?</p> <p>A I really don't know what Barney was referring to in this note. I'd be speculating on</p>
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<p>13:14:25 1 He produced monthly numbers, 13:14:27 2 but to the best of your recollection, there wasn't 13:14:29 3 a stand-alone, unique, unprecedented report 13:14:36 4 prepared by Darl Hatfield in the fall or early 13:14:38 5 winter or -- fall or winter of 1998?</p> <p>13:14:42 6 A I don't recall it.</p> <p>13:14:48 7 Q The market-share decline, what 13:14:50 8 percentage or amount of the market-share decline 13:14:53 9 in 1998 did you attribute to problems with gray 13:14:57 10 marketing or your clubs appearing at Costco?</p> <p>13:15:03 11 A I can't contribute specific 13:15:07 12 percentages to, you know, any specific category. 13:15:10 13 There were a whole myriad of issues which I think, 13:15:16 14 you know, again, in hindsight, contributed to our 13:15:20 15 loss of market share in the fall of 1998.</p> <p>13:15:23 16 The competitive launches of 13:15:26 17 the Orlimar product, I think, was a very 13:15:31 18 substantial issue. Callaway, who was the largest 13:15:36 19 equipment manufacturer launched a market called 13:15:39 20 Steel Head that targeted us specifically in the 13:15:41 21 second half, I believe, of 1998.</p> <p>13:15:45 22 We were -- we had maturing 13:15:48 23 product line at that point, if you -- you know, 13:15:51 24 normal S curve on product life cycles. We were</p>	<p>13:17:33 1 what he might be referring to.</p> <p>Q Did you have a sense at the time in September 1998 that it was a company facing potentially crippling damage in its sales department?</p> <p>A No.</p> <p>Q Did you ever -- was there ever a time that you arrived at that same conclusion that Barney's writing in this letter, that the sales department was facing potentially crippling damage or irreparable damage?</p> <p>A The sales department specifically, no.</p> <p>Q Okay. What, if any, steps did you take at that time to combat this problem with market share and decline?</p> <p>A I don't know whether I fully recognized that issue as well at that point in time as I feel that I do now. Again, I use the term "hindsight." It's difficult, as you know, not to view any context without the knowledge that you currently have</p> <p>But the -- you know, at that point in time, and the point in time you're</p>

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13:29:40 1 it, and it doesn't appear to be covered here in 13:29:42 2 the memo I just read 13:29:46 3 Q After Jay Greaney tendered his 13:29:53 4 resignation, was double shipping ever an issue 13:29:56 5 again in the inside sales department? 13:29:57 6 A Double shipping still happens today. 13:30:00 7 Double shipping happens at times just out of 13:30:04 8 mistakes, you know, which are no honest, you know, 13:30:07 9 goof-ups. So double shipments, yes. 13:30:12 10 Q So it's fair to assume, then, that 13:30:14 11 because he was terminated, Jay Greaney's activity 13:30:17 12 was not considered to be an honest goof-up? 13:30:27 13 A Yes. 13:30:32 14 Q Are you aware of why the inside sales 13:30:36 15 staff would feel that double shipments were 13:30:39 16 quietly endorsed -- 13:30:42 17 A No. 13:30:42 18 Q -- at Adams Golf? 13:30:51 19 What problems in management 13:30:53 20 style did Craig Parrish have? I'm citing Item E 13:31:00 21 on this document in the exhibit. 13:31:03 22 MR. BESETTE: You mean from 13:31:04 23 his perspective? 13:31:06 24 MR. MARA: Yeah.	13:32:25 1 A Barney is very much a 13:32:28 2 stream-of-consciousness guy. He shoots opinions 13:32:32 3 very quickly and often, you know, off-the-cuff, 13:32:37 4 goes to extreme positions. You know, he shared, 13:32:41 5 you know, his perspectives, including concerns as 13:32:46 6 well as goals and opportunities with me. He, you 13:32:53 7 know, didn't have -- he never was wanting to go 13:32:56 8 through or have tons of data behind anything of 13:33:05 9 that. 13:33:05 10 Q Who, if anyone, collaborated with him 13:33:10 11 in researching this background? Do you know? 13:33:15 12 A Before my time I don't know. 13:33:16 13 Q The next sentence, and I quote: As a 13:33:18 14 result, this analysis is the worst performance 13:33:22 15 assessment I've ever written, and that includes 13:33:25 16 all my pre-Adams corporate days. 13:33:34 17 It's reasonable to assume, 13:33:35 18 then, that the relationship between Mark Gonsalves 13:33:38 19 and Barney Adams by August 14th, 1998, had 13:33:43 20 deteriorated significantly? 13:33:44 21 A Barney would shoot from the hip. You 13:33:46 22 know, he -- at any one time, he might, you know, 13:33:52 23 chew somebody out fairly graphically at any point 13:33:55 24 in time. We've all experienced that. He's a
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13:31:06 1 Q (By Mr. Mara) After -- I mean, I -- 13:31:07 2 I would assume that any weakness or lack of 13:31:13 3 direction as practiced by Craig Parrish in August 13:31:16 4 of 1998 was -- remained an issue in September of 13:31:19 5 1998? 13:31:20 6 A Craig remained in his position when I 13:31:26 7 took over as inside sales. There were some strong 13:31:29 8 supporters of his within this department; there 13:31:31 9 were some detractors. And the -- you know, the 13:31:36 10 best I recall, Craig remained an employee in good 13:31:40 11 stead with the company until he left at his own 13:31:53 12 volition. 13:31:53 13 Q On the next page, just after Item I, 13:31:57 14 quoting Barney, he says: Here's what I know. 13:32:00 15 I've researched this to the point where I know 13:32:02 16 there is enough truth that A through I have become 13:32:05 17 reality. 13:32:09 18 How did Barney go about 13:32:11 19 researching these items? 13:32:13 20 A I don't have any idea. 13:32:16 21 Q At no point after you joined the 13:32:18 22 company did he share all of the information that 13:32:21 23 he had obtained and gathered as part of writing 13:32:24 24 this memorandum?	13:33:57 1 passionate individual and, you know, I've already 13:34:03 2 testified I think their relationship was strained. 13:34:06 3 I don't think you can take that from this one 13:34:08 4 specific instance, owing anything too significant. 13:34:11 5 Q Did -- and then following further 13:34:15 6 down, and again quoting: Apparently, we've made a 13:34:18 7 lot of sales that have been falsely reported (as 13:34:22 8 sales) and are little more than consignments. 13:34:25 9 Check July returns and tell me what they'll be 13:34:27 10 during the rest of the year. 13:34:31 11 Do you concur that a lot of 13:34:33 12 sales had been falsely reported as sales and were, 13:34:36 13 in fact, little more than consignments at that 13:34:38 14 time? 13:34:38 15 A No. I would -- from the facts I've 13:34:40 16 seen, I would disagree with that. 13:34:42 17 Q So in your opinion that particular 13:34:44 18 paragraph is wholly inaccurate in this exhibit, 13:34:48 19 or -- 13:34:48 20 A In my opinion, that paragraph is -- 13:34:50 21 is inaccurate. 13:34:52 22 Q Okay. Did you ever discuss the issue 13:34:54 23 of consignment sales and -- with Barney? 13:35:04 24 A I don't recall specifically

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BROOKS

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE: ADAMS GOLF, INC. : CONSOLIDATED
SECURITIES LITIGATION : C.A. NO. 99-371 KAJ
X

ORAL DEPOSITION OF SANDRA BROOKS

Friday, June 30, 2006

The oral deposition of SANDRA BROOKS was held at the law offices of Akin Gump Strauss Hauer & Feld, LLP, 1700 Pacific Avenue, Suite 4100, Dallas, Texas, from 10:38 a.m. to 12:09 p.m., before Jamie K. Israelow, a Certified Shorthand Reporter in and for the State of Texas, Registered Professional Reporter, Certified Realtime Reporter and Certified LiveNote Reporter.

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<p>11:45:30 1 Q And they started complaining, and as 11:45:30 2 you say, they got more and more disgruntled, and 11:45:32 3 it took months, and then at some point they slowed 11:45:34 4 their orders and it stopped altogether?</p> <p>11:45:37 5 A Yeah.</p> <p>11:45:37 6 Q And the records of the company and 11:45:40 7 the sales records would reflect all the sales that 11:45:42 8 were made?</p> <p>11:45:44 9 A Yeah.</p> <p>11:45:44 10 Q So we could see, presumably, whether 11:45:48 11 anybody actually slowed or stopped?</p> <p>11:45:50 12 A Yeah, I would guess.</p> <p>11:46:15 13 MR. MARA: Is now a good time?</p> <p>11:46:17 14 MR. BESSETTE: Yeah. Let's 11:46:18 15 break.</p> <p>11:46:18 16 (A recess was taken from 11:56:00 17 11:46 to 11:56.)</p> <p>11:56:00 18 MR. BESSETTE: Okay. Back on.</p> <p>11:56:05 19 Q (By Mr. Bessette) In the -- 11:56:07 20 Ms. Brooks, in the -- again, same time frame we've 11:56:09 21 been talking about moving into the new building 11:56:12 22 on Plano Parkway, March/April, till the IPO, how 11:56:15 23 many inside salespeople do you think the company 11:56:17 24 had at that time, that you recall?</p>	<p>11:57:14 1 salespeople, did you -- how well did you know 11:57:16 2 other people's accounts? Did you have time to 11:57:18 3 know other salespeople's accounts?</p> <p>A Some of the bigger ones that maybe 11:57:22 5 affect your territory, maybe you would know.</p> <p>Q Uh-huh.</p> <p>A That way.</p> <p>Q Okay. I can see that. Any other way?</p> <p>A Just chatting. Like I'll give you an example that kind of -- like the -- there's a golf club in Pennsylvania called Squires Club. It's a pretty high-end -- when I say high-end, men-only club, and I got to be such good friends with the pro there that he actually sent me a wedding present, and he thanked me when I sent Dr. Jay to his club to buy a golf club.</p> <p>So I told everybody the Dr. Jay story a hundred times. So you know things, if have like a story or something. We knew things about maybe special accounts.</p> <p>Q Okay. All right. Good.</p> <p>Now, Jay Greaney was the top salesperson at the time?</p>
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<p>11:56:25 1 A 12, maybe. I don't remember. I'm 11:56:28 2 trying to think of who all was there. I know it 11:56:31 3 was more than the initial six.</p> <p>11:56:33 4 Q Uh-huh.</p> <p>11:56:33 5 A 10, 10, 12, somewhere around there.</p> <p>11:56:36 6 Q That's your recollection?</p> <p>11:56:36 7 A I think -- I don't really remember 11:56:38 8 I'm just trying to think of who the salespeople 11:56:40 9 were, because they were the original six, and then 11:56:45 10 there was like Darin and Andrea and all those 11:56:47 11 people got hired, and the little guy that drove 11:56:51 12 the Jeep. I can't remember his name. I don't 11:56:53 13 remember. I know it was more.</p> <p>11:56:54 14 Q Okay. And do you remember -- do you 11:56:56 15 remember about the time of the IPO again, so we're 11:56:59 16 in the summer of '98, about how many retail 11:57:02 17 accounts were there overall that the company had?</p> <p>11:57:03 18 A I don't know.</p> <p>11:57:04 19 Q No idea?</p> <p>11:57:05 20 A Huh-uh.</p> <p>11:57:06 21 Q You don't know if it was 5,000 or 11:57:09 22 10,000 or anything like that?</p> <p>11:57:11 23 A No.</p> <p>11:57:11 24 Q With lots of accounts and lots of</p>	<p>11:58:20 1 A Correct.</p> <p>MR. MARA: The time being?</p> <p>Q (By Mr. Bessette) The time being, 11:58:24 4 again, it's March/April to --</p> <p>A While Jay was there, best of my 11:58:26 5 recollection, he was usually the top salesperson, 11:58:28 6 so --</p> <p>Q And why was that, in your view?</p> <p>A He was a good salesperson, and he 11:58:36 10 also padded his orders.</p> <p>Q Yeah. So let me explore that a 11:58:42 12 little.</p> <p>Why do you think he padded his 11:58:45 13 orders?</p> <p>A To make more money.</p> <p>Q Let me ask you a better question: 11:58:50 17 How do you know? How do you have the opinion that 11:58:52 18 he padded his orders?</p> <p>A Because my -- I know he had a lot of 11:58:53 19 returns and -- and it was kind of common 11:59:01 20 knowledge.</p> <p>Q Okay. So besides water cooler talk 11:59:04 21 and people not liking Jay for whatever reason --</p> <p>A I never said I didn't like Jay. I do</p>

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<p>11:59:11 1 like Jay</p> <p>11:59:12 2 Q Okay. Let me ask you this in one</p> <p>11:59:14 3 pointed question: Do you have any personal</p> <p>11:59:17 4 knowledge that he actually, as you said, padded</p> <p>11:59:19 5 his numbers?</p> <p>11:59:20 6 A I can't think of anything specific.</p> <p>11:59:23 7 Eight years ago, I probably could have cited</p> <p>11:59:25 8 something pretty specific, but right now, no, I</p> <p>11:59:27 9 can't.</p> <p>11:59:27 10 Q So as you sit here, no personal</p> <p>11:59:29 11 knowledge?</p> <p>11:59:29 12 A That I can remember.</p> <p>11:59:30 13 Q That's all I want to know, is what</p> <p>11:59:32 14 you remember.</p> <p>11:59:32 15 A Yeah. I can't think of anything</p> <p>11:59:34 16 right now. If someone were to jog my memory or</p> <p>11:59:36 17 give me some specific examples, maybe I'd remember</p> <p>11:59:38 18 something, maybe I wouldn't. I don't know.</p> <p>11:59:42 19 Q Okay. You also testified earlier</p> <p>11:59:43 20 about this California store that Jay shipped to</p> <p>11:59:46 21 A Uh-huh.</p> <p>11:59:47 22 Q So let me understand, are you saying</p> <p>11:59:48 23 that you were out in California and you knew the</p> <p>11:59:51 24 specific address?</p>	<p>12:00:52 1 A I take it is that he is selling them</p> <p>12:00:54 2 to this guy and this guy is probably, I'm</p> <p>12:00:58 3 thinking, Mr. Gray Market guy.</p> <p>12:01:01 4 Q But again, no personal knowledge?</p> <p>12:01:03 5 A No. But it was -- the whole inside</p> <p>12:01:06 6 sales team, including Mark and Craig and everybody</p> <p>12:01:09 7 else, knew about this. We talked about it openly.</p> <p>12:01:13 8 It wasn't some big secret.</p> <p>12:01:15 9 Q So wouldn't that suggest it was</p> <p>12:01:17 10 appropriate and aboveboard, just a little unusual</p> <p>12:01:19 11 and not something sinister?</p> <p>12:01:22 12 A No --</p> <p>12:01:22 13 MR MARA: Objection to the</p> <p>12:01:23 14 form of the question.</p> <p>12:01:23 15 But answer it. Sorry.</p> <p>12:01:26 16 A No, because didn't Jay get fired?</p> <p>12:01:33 17 Q (By Mr. Bessette) Is that your</p> <p>12:01:33 18 recollection?</p> <p>12:01:33 19 A Yeah, I think he got fired</p> <p>12:01:36 20 eventually. I mean, Jay had a unique way of</p> <p>12:01:41 21 selling clubs, I'll say, and I personally don't</p> <p>12:01:44 22 find it to have been an ethical way to sell clubs</p> <p>12:01:50 23 Q What do you mean by that?</p> <p>12:01:54 24 A Some people, when you -- you say:</p>
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<p>11:59:52 1 A No. No. No. Other people, such as</p> <p>11:59:54 2 myself -- I was giving you an example of when I</p> <p>11:59:56 3 went to California and I would go look at other</p> <p>11:59:58 4 people, but I do remember him having an account in</p> <p>12:00:04 5 California that did not have a storefront.</p> <p>12:00:07 6 Q Okay.</p> <p>12:00:07 7 A I believe -- I believe maybe he's the</p> <p>12:00:09 8 one who told us. I don't recall. I don't</p> <p>12:00:11 9 remember, but it -- the inside sales team knew</p> <p>12:00:16 10 that Jay had a customer, client, whatever you want</p> <p>12:00:21 11 to call them, in California that did not have a</p> <p>12:00:35 12 storefront.</p> <p>12:00:35 13 I think maybe one of his other</p> <p>12:00:35 14 clients found that out. I'm not really sure</p> <p>12:00:35 15 exactly how it came to light, but that did come to</p> <p>12:00:35 16 light.</p> <p>12:00:35 17 Q Okay. And what did that mean to you?</p> <p>12:00:35 18 Because I don't know what that means.</p> <p>12:00:35 19 A Well, that meant to me: He is</p> <p>12:00:39 20 selling clubs at the wholesale price to some guy</p> <p>12:00:41 21 who doesn't have a store for people to come and</p> <p>12:00:44 22 buy them in.</p> <p>12:00:46 23 Q Okay. So besides that, you don't</p> <p>12:00:49 24 know -- is there any other meaning to that?</p>	<p>12:01:56 1 Okay. I'll take six clubs</p> <p>12:02:00 2 Send them a dozen. He would</p> <p>12:02:01 3 do that. That was his method. I don't believe</p> <p>12:02:04 4 there's any secret. A person tells me: Send me</p> <p>12:02:08 5 six clubs, I sent them six clubs. So that's what</p> <p>12:02:10 6 I'm talking about.</p> <p>12:02:11 7 Q All right. So let's explore that</p> <p>12:02:13 8 again. Besides the knowledge that you say was</p> <p>12:02:16 9 around the water cooler --</p> <p>12:02:17 10 A Do I have something pinpoint specific</p> <p>12:02:20 11 to document or anything, no, I don't.</p> <p>12:02:21 12 Q So no personal knowledge, no seeing</p> <p>12:02:23 13 an order, knowing that somebody ordered six and --</p> <p>12:02:25 14 A No.</p> <p>12:02:25 15 Q -- seeing that Jay actually shipped</p> <p>12:02:28 16 12?</p> <p>12:02:29 17 A No.</p> <p>12:02:29 18 Q Nothing like that?</p> <p>12:02:29 19 A No.</p> <p>12:02:30 20 Q Just talk around the halls?</p> <p>12:02:32 21 A Yeah.</p> <p>12:02:35 22 Q Okay. Now, you testified earlier</p> <p>12:02:44 23 that -- I think you said Costco. you know, it was</p> <p>12:02:47 24 a big problem for your -- the accounts we've</p>

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12:02:50 1 already talked about -- 12:02:51 2 A Right. 12:02:51 3 Q -- who they were. And that 12:02:54 4 eventually, over time, they got so disgruntled 12:02:58 5 that they slowed or stopped orders? 12:03:00 6 A Right. 12:03:00 7 Q Sitting here, looking back on it now, 12:03:04 8 so this time frame in '98 -- 12:03:06 9 A Uh-huh. 12:03:0710 Q -- let's say all of -- let's say that 12:03:1011 same time frame, the April -- March/April, going 12:03:1312 to the new building, to say, the IPO, how -- how 12:03:1813 many clubs -- how many -- how many clubs did 12:03:2014 Costco sell in your territory? Do you have any 12:03:2415 sense? 12:03:2516 A No. I mean, I couldn't tell you. I 12:03:2717 mean, I never went there. I don't know how many 12:03:2918 they had, but according to my clients who told me 12:03:3319 that they had, you know, in the -- a hundred clubs 12:03:3720 or so sitting right there. It was always full and 12:03:4021 it was all freshly stocked, so I'm going to say a 12:03:4322 lot. 12:03:4323 Q A lot. 12:03:4324 A Yeah. I don't have a number to put	12:05:07 1 point. You would have thought it was more because 12:05:10 2 it seemed more to you because your customers 12:05:13 3 were -- were complaining to you? 12:05:15 4 A Uh-huh. 12:05:15 5 Q But you don't, as you sit here, know 12:05:17 6 how many actual sales were being made in Costco 12:05:20 7 and how it was affecting the company overall, 12:05:22 8 meaning Adams Golf? 12:05:23 9 A Right. 12:05:2610 Q Okay. And would it surprise you to 12:05:2811 learn -- and again, in the same time frame, April, 12:05:3012 May, June of 1998 -- in what Costco calls the 12:05:3613 Southeast region, but it's the states of Alabama 12:05:3814 and Florida, Georgia, Maryland, North Carolina, 12:05:4115 portions of New Jersey -- I don't know why that's 12:05:4716 Southeast, but -- Puerto Rico, South Carolina, 12:05:4717 Tennessee, and portions of Virginia, there were 12:05:5018 only 150 clubs sold by Costco in that time frame? 12:05:5419 MR. MARA: Same objection. 12:05:5420 Q (By Mr. Bessette) Is that surprising 12:05:5521 to you as well? 12:05:5722 A Yeah. 12:05:5823 Q Again, you would have thought it 12:05:5924 would be more?
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12:03:45 1 on it because I wasn't there. I didn't count 12:03:47 2 them. I'm just going by what my people told me 12:04:05 3 Q Okay. And you have no reason to 12:04:07 4 dispute that whatever the Costco records show what 12:04:10 5 their sales were in particular regions, you don't 12:04:13 6 have any reason to believe that that wouldn't be 12:04:15 7 accurate? 12:04:16 8 A No. 12:04:25 9 Q Okay. And if -- for example, if 12:04:2810 Costco had showed that in the second quarter of 12:04:3211 1998 -- and again, that's right at the time frame 12:04:3412 we're talking about, April, May, June 1998 12:04:3713 A Uh-huh. 12:04:3914 Q -- in the states of Alaska and Idaho 12:04:4215 and Montana and Oregon and Utah and Washington, 12:04:4816 there were just over 700 clubs sold, does that 12:04:5217 sort of sound accurate to you? 12:04:5418 MR. MARA: Objection, assumes 12:04:5519 facts not in evidence 12:04:5520 But go ahead 12:04:5721 A I figured it would be a lot more than 12:04:5822 that, but I -- I have never been to any of those 12:05:0423 places, so I have no idea. I mean -- 12:05:0624 Q (By Mr. Bessette) And that's a good	12:06:00 1 A Yeah. Maybe they're all sold out of 12:06:02 2 Miami, I don't know, but -- 12:06:05 3 Q Maybe you know, maybe not. We don't 12:06:07 4 know. 12:06:25 5 When did you -- let's see. 12:06:27 6 You said you got married in April? 12:06:29 7 A Uh-huh. 12:06:30 8 Q 1998? 12:06:30 9 A Uh-huh. 12:06:3110 Q You got married to Michael Brooks? 12:06:3311 A Right. 12:06:3312 Q He was an employee of Adams Golf? 12:06:3513 A Right. 12:06:3514 Q And you met him at Adams Golf? 12:06:4215 A Right. 12:06:4216 Q He was in what department? 12:06:4417 A He started off in customer service, and then he moved up, and he was like the purchasing manager or something like that. He -- he was in charge of purchasing the components. 12:06:4618 Q We won't be too much longer. 12:06:4919 Purchasing Who was his boss in 1998/1999 time frame? Do you know? 12:06:5220 A Well, Dick Murtland was his boss, and

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D. BROWN

Dave Brown
04/27/06

DAVE BROWN - April 27, 2006

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE ADAMS GOLF, INC. Consolidated
C.A. No. 09-371 KAJ
SECURITIES LITIGATION Class Action
Jury Trial Demanded

APRIL 27, 2006
9:00 O'CLOCK A.M.

Complimentary Client Copy

The Deposition of DAVE BROWN, taken
before Ernest Kuemmel, CSR(A), Examiner, pursuant
to Rules 203, 728, 204(1) of the Court of Queen's
Bench of Alberta at the offices of Michael C.
Dunkley, Calgary, Alberta, on the 27th day of
April, A.D. 2006.

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OFFICIAL COURT REPORTER:

Jim L. Morosse, CSR(A) RPR

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1 DAVE BROWN, sworn, examined by
 2 Ms. Leland:
 3 Q. Thank you for coming today. My name is
 4 Elizabeth Leland. I'm with the firm of Keller
 5 Rohrback. I'm one of the attorneys for the
 6 plaintiffs in this litigation.

7 Could you state your name for the
 8 record, please.

9 A. David Paul Brown.

10 Q. And could you state your current
 11 address?

12 A. Current address is 2228, 1010 Arbour
 13 Lake Road northwest, Calgary.

14 Q. And you're formerly affiliated with the
 15 company by the name of WDC Mackenzie; Is that
 16 correct?

17 A. That's correct.

18 Q. Were you involved in the starting or the
 19 founding of Mackenzie?

20 A. I was one of the original founders,
 21 three original founders.

22 Q. What was your role in founding the
 23 company?

24 A. My position in the company was vice
 25 president of operations. My job was basically Ryan

5

Magnussen and myself were the key initial guys who started the company. We started it from scratch.

3 There was nothing.

4 Q. What was your business experience before
5 starting this company?

6 A. Previous to that, I had worked at Canada
7 Trust banking here in Calgary, as an assistant bank
8 manager. Previous to that, I had been in retail
9 sales for nine or ten years.

10 Q. What were your title and duties at WDC
11 Mackenzie beginning in -- as of 1998?

12 A. In 1998, I was vice president of
13 operations. My duties basically were to oversee --
14 report directly to Ryan Magnussen, who was the
15 president at the time, and oversee the whole
16 structure of the company, build up certain parts of
17 it, to hire staff and make sure that we were taking
18 care of certain sections of the company.

19 Q. How did Mackenzie get Adams Golf as a
20 line of products to sell?
21 A. We were distributing a product called
22 Soft Spikes that originated out of Boise, Idaho.
23 There was a gentleman named Ferris McMulland who
24 was founder and starter of that company. Ferris
25 was friends with Barney Adams. And we were doing a

6

1 pretty good job for Soft Spikes up in Canada and we
2 were looking for more products, to expand.

3 So in conversations with Ferris, he
4 had mentioned Barney's name, and he had some
5 interesting products coming out and had set up a
6 time for me to meet with Barney Adams at a golf
7 trade show.

8 Q. When was that?

9 A. Trade show would have been in 1996.

10 Q. And did you meet with Barney at the
11 trade show, and if so, what happened?

12 A. Yes, I met with Barney Adams, spoke for
13 quite a while, explained where we were from.

14 He had been up to Canada a few
15 times. He had some friends up in Ontario. Quite
16 liked Canada and was interested in starting his
17 products and expanding it up there, and was
18 interested in working with a company that was
19 established in Canada.

20 Q. From there, you entered into an
21 arrangement to distribute?

22 A. That's correct. Barney was very much,
23 those times, a down to earth guy, that he wanted to
24 do things on a handshake rather than formal
25 contracts.

1 Q. Okay, what was the arrangement between
2 Mackenzie and Adams Golf concerning the

3 distribution of Adams clubs?

4 A. The arrangement was Barney would --
5 wanted us to take the product, put it into our
6 line.

7 We already had sales guys that were
8 going out calling on the golf courses, et cetera.
9 And he wanted us to take the product and introduce
10 it to the existing golf courses and golf shops in
11 Canada.

12 Q. And sorry, what year did you begin
13 distributing for Adams Golf?

14 A. For Adams, 199 -- late '96.

15 Q. And is it correct that you were the only
16 retail distributor in Canada?

17 A. We're a wholesaler. We're their only
18 wholesaler in Canada, and we distributed to all the
19 retail shops, golf and -- what we call green grass
20 and non-green grass shops. Green grass being all
21 the golf courses; and non-green grass, the Nevada
22 Bob's, the Pro Golfs and those guys.

23 Q. Are you familiar with the term "gray
24 marketing"?

25 A. Yes, I am.

8

1 Q. What does that term mean to you?

2 A. Gray marketing is basically taking the
3 products or getting hold of products that are under
4 a certain distribution system right now, getting
5 hold of the products and distributing them or
6 selling them without going through proper channels,
7 would probably be the easiest way to explain it.

8 Q. Did you ever discuss gray marketing with
9 Barney Adams?

10 A. When the gray market problem surfaced,
11 Barney's company was growing tremendously, and we
12 were advised to talk to the people below him, which
13 were Mark Gonzales at first and then later Chris
14 Beebe.

15 Q. Let me back up. Could you briefly
16 explain the gray marketing situation that you just
17 referenced regarding Canada gray marketing sales?

18 A. I'm not sure if I understand that.

19 Q. Can you give me a brief background of
20 the gray market problem that you encountered?

21 A. The gray market problem we had, had to
22 do with Costco. Costco Canada. We got a call from
23 one of our representatives out of Vancouver that
24 all of a sudden our products were showing up at
25 Costco stores.

DAVE BROWN - April 27, 206

25

**EXHIBIT NO. 44 - ONE-PAGE DOCUMENT
HEADED "ADAMS GOLF WDC MACKENZIE
SALES SINCE 1997" - MCK00297**

1 Q. MS. LELAND: Mr. Brown, the court
2 reporter has just marked a document as Exhibit
3 No. 44. It's Bates numbered MCK00297.

4 Are you familiar with this
5 document?

6 **A. Yes, I am.**

7 Q. Do you know who created this document?

8 **A. It was created by Greg Pratt.**

9 Q. Can you tell me what this document
10 represents?

11 **A. The document represents WDC's sale of
12 Adams Golf clubs the year 1997, '98 and first part
13 of — the first half of 1999. The dollar figures
14 that you see are broke down month by month.**

15 Q. Are these in Canadian or U.S. dollars?

16 **A. These would be in Canadian dollars, I do
17 believe. Everything that we worked on was based
18 upon Canadian dollars.**

19 Q. Okay. Going through some of these notes
20 on the right-hand side of the document, can you
21 read me what it says with respect to May of 1998?

22 **A. "Product hit Costco Canada."**

26

1 Q. And earlier you testified that the
2 product was in as early as March; is that correct?

3 **A. That's correct.**

4 Q. Could you read what it says by July of
5 1998?

6 **A. "Customers started returning
7 clubs and didn't want Adams due to
8 Costco. \$200,000 loss due to exchange
9 on the Canadian dollar."**

10 Q. Okay, can you read the comments by the
11 September '98 entry?

12 **A. "Only way they would take clubs
13 is on consignment for Christmas
14 season."**

15 We had quite a stock, and obviously
16 we were trying to get product in there. Some of
17 the stores stay open during the Christmas periods,
18 especially on the west coast, in Vancouver areas.

19 Q. Can you read to me what it says by, I
20 believe it's November of 1998.

21 **A. "Slow Christmas season. We get
22 filled in on consignment and customers
23 are still reluctant to bring in
24 product."**

25 Q. To the best of your recollection, are

27

1 these notations, were they true at the time?
2 **A. They're accurate. "Product hits Costco
3 in May." It's a little off. I would say that's
4 when a majority of it hit Costco, not the very
5 beginning. The very beginning started, as we said,
6 back in March.**

7 Q. Okay, can we skip ahead of January of
8 1999?

9 **A. Certainly.**

10 Q. What are the recorded sales there?

11 **A. That's our losses, 77,000.**

12 Q. \$77,000 in losses in January of 1999?

13 **A. That's correct.**

14 Q. Can you read to me the comment next to
15 that entry?

16 **A. "New pricing was introduced." Most
17 customers from Christmas consignment returned the
18 clubs to us. They hadn't sold during the Christmas
19 season. We had put it out on consignment. They
20 returned the clubs.**

21 MS. LELAND: Okay. One more
22 document.

**EXHIBIT NO. 45 - SEPTEMBER 13, 1999
FAX FROM MARC PUGLIELLI TO WDC
MACKENZIE DIST. LTD. C/O RYAN**

28

**MAGNUSEN, WITH FOUR ATTACHMENTS -
MCK00002 TO MCK00006**

3 Q. MS. LELAND: Being marked as
4 document number 45 is Bates number MCK02107 (sic)
5 through 02111 (sic).

6 Can you take a look at this
7 document and tell me if you recognize it?

8 **A. Yes, I do.**

9 Q. Can you tell me what this document is?

10 **A. Ryan Magnussen had requested some
11 information from Marc Puglielli with Adams Golf.
12 This is the information that was sent to Ryan. It
13 gave us a breakdown of WDC's sales for 1999, by
14 product.**

15 Q. This came from WDC files; correct?

16 **A. This came from WDC files, as well as
17 Marc Puglielli had sent it up from their system, I
18 believe, directly from Adams Golf.**

19 Q. Could you take a look at the page Bates
20 number MCK02109. That would be the third page.

21 The bar graph.

22 **A. Okay.**

23 Q. Looking at the bar graph, can you tell
24 me what the figures here represent?

25 **A. This is sales from 1998 and 1999,**

1 starting in January. And it shows --

2 Q. Now, is this sales or is this the amount
3 of clubs that --

4 A. This is purchases that we made from
5 Adams Golf.

6 Q. Okay.

7 A. And these numbers coincide with our golf
8 season.

9 Q. Okay. In looking at the beginning,
10 starting at '98, the numbers generally trend upward
11 toward -- through June, 1998; is that correct?

12 A. That's correct.

13 Q. And then what happens in July, '98?

14 A. We sell -- we buy little to none.

15 Q. Why was that?

16 A. We were starting to get our product back
17 and clients were refusing to purchase it.

18 Q. Why was that?

19 A. Again, going to the product being in
20 Costco. We had prebooked various different sales.
21 A certain amount of clubs had come in at certain
22 times. Whether we had got everything we ordered,
23 they had shipped to us, we had bought from them;
24 and all of a sudden everything came to a halt at
25 the end of June.

30

1 Q. Okay. Were Adams gray market problems
2 known in the golf community in Canada?

3 A. Yes.

4 Q. Who all in the golf community was aware
5 of the problems?

6 A. Distributors, golf pros, and golf shop
7 owners and managers. We have a small network up
8 here. Some guys work in Ontario and then they're
9 shipped out to Vancouver, et cetera, so a lot of
10 people know a lot of people right across the
11 country.

12 Q. How about in the United States?

13 A. In the United States -- we dealt
14 directly in Canada. What was happening in the
15 United States market, we were unaware of. If they
16 were in the Costcos or the Golf Pros knew about it
17 down there, we were unaware of it.

18 Q. Had you expected, when you ordered your
19 clubs from Adams Golf, the club sales would
20 continue to escalate per the trend we just looked
21 at in Exhibit 45, through July of '98?

22 A. Yes. I believe we also had a
23 conversation with Adams Golf earlier in 1998,
24 January, February, before the gray market incidents
25 happened, to be able to get their feel that their

1 product was going to be able to keep up with our
2 demand up here.

3 The numbers that we see here in
4 February, March, April and May, we expected that
5 continue right on into December of that year and
6 into the following year.

7 Q. It failed to continue into the following
8 year; correct?

9 A. It failed -- the middle, the end of
10 June, it was just history.

11 Q. And that was due to the gray marketing,
12 to the best of your knowledge?

13 MS. REED: Objection. Form.

14 A. That's correct.

15 Q. MS. LELAND: Why do you believe
16 the sales did not continue to trend upward during
17 1998?

18 A. I mean, Costco was offering the product
19 for \$15 over our wholesale. Our guys were buying
20 them at 235. They were selling them at 299 to 350,
21 which is normal margins on golf equipment. And the
22 guy off the street could walk into Costco,
23 everybody has a Costco membership, and they could
24 walk in and get it for 250 there. Why would they
25 go buy it at the golf course for 350?

32

1 Q. Did the Costco problem before the IPO in
2 July of '98, do any permanent damage to Mackenzie's
3 sales of Adams products?

4 A. Definitely. We had customers that would
5 not buy product from us, period. They didn't
6 want -- we had a new driver coming out, there was
7 all sorts of things. They didn't want anything to
8 do with us.

9 MS. LELAND: That is, I think,
10 all I have. We'll take a quick break.

11 (BRIEF ADJOURNMENT)

12 MS. LELAND: I have no further
13 questions.

14 MS. REED EXAMINES THE WITNESS:

15 Q. I'm Michelle Reed, and I represent the
16 defendant Adams Golf and the individual defendants.
17 The underwriter defendants are represented by
18 Simpson Thatcher, who is not here today. And
19 thanks so much for staying with us and being here
20 so late.

21 Tell me a little bit about
22 what your role was at the company. You talked
23 about how you were the operations. I'm just trying
24 to get a feel for what you do from day-to-day, in
25 1998.